

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

VENITA HAMMOND,

Plaintiff,

v.

Case No. 05-CV-1071

STATE OF WISCONSIN DEPARTMENT OF
CORRECTIONS, and
ETHAN ALLEN BOYS SCHOOL,

Defendants.

ORDER

On October 7, 2005, pro se plaintiff Venita Hammond filed a complaint raising claims of employment discrimination. In a letter dated February 20, 2008, counsel for the defendants informed the court that the plaintiff passed away in December 2007. Defendants' counsel forwarded a copy of his letter to the plaintiff's mother's mailing address.

Federal Rule of Civil Procedure states:

If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.

Fed. R. Civ. P. 25(a)(1).

Although the plaintiff's employment discrimination claims may survive her death, no motion for substitution was filed and over 90 days have passed since counsel for the defendants gave notice of her death.

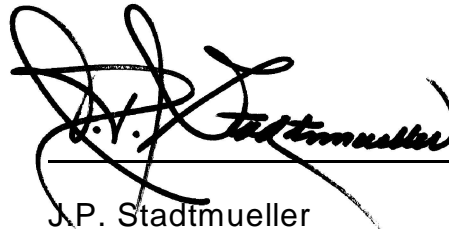
Accordingly,

IT IS ORDERED that the defendants' motion to enlarge time (Docket #24) be and the same is hereby **DENIED** as moot;

IT IS FURTHER ORDERED that pursuant to Fed. R. Civ. P. 25(a)(1) this action be and the same is hereby **DISMISSED**.

Dated at Milwaukee, Wisconsin, this 22nd day of May, 2008.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J.P. Stadtmueller", is written over a horizontal line.

J.P. Stadtmueller
U.S. District Judge